

PATENT COOPERATION TREATY
PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
 (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 39040009WO	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/014094	International filing date (<i>day/month/year</i>) 10.12.2004	Priority date (<i>day/month/year</i>) 10.12.2003
International Patent Classification (IPC) or national classification and IPC A41B9/02		
Applicant SCHIESSEER AG		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of 2 sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>		

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

 - international search (Rule 12.3 and 23.1(b))
 - publication of the international application (Rule 12.4)
 - international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished
 the description:
 pages 1–6 _____ as originally filed/furnished
 pages* _____ received by this Authority on _____
 pages* _____ received by this Authority on _____
 the claims:
 nos. _____ as originally filed/furnished
 nos.* _____ as amended (together with any statement) under Article 19
 nos.* 1–7 _____ received by this Authority on 08.02.2006 by fax
 nos.* _____ received by this Authority on _____
 the drawings:
 sheets 1/1 _____ as originally filed/furnished
 sheets* _____ received by this Authority on _____
 sheets* _____ received by this Authority on _____
 a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. The amendments have resulted in the cancellation of:

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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1. Statement

Novelty (N)	Claims	1 – 7	YES
	Claims	_____	NO
Inventive step (IS)	Claims	1 – 7	YES
	Claims	_____	NO
Industrial applicability (IA)	Claims	1 – 7	YES
	Claims	_____	NO

2. Citations and explanations (Rule 70.7)

1. Citations

Reference is made to the following documents:

D1: FR-A-2 624 701
 D2: FR-A-2 567 001
 D3: US-A-2 231 299

2. Independent claim 1

- 2.1 On the basis of the documents cited in the search report, the subject matter of claim 1 appears to be novel (PCT Article 33(1) and 33(2)) and to involve an inventive step (PCT Article 33(1) and 33(3)).
- 2.2 The features specified in the characterising part of the claim do not appear to be known from D1.
- 2.3 The technical effect of the distinguishing features is that the jockstrap does not cover the slit opening, which means that the support region is directly accessible via the slit opening.

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<p>2.4 The problem addressed by the present invention can thus be seen as that of making it easier for the user to urinate while wearing the jockstrap, without excessive rearranging or shifting of the layers.</p> <p>2.5 Document D3 appears to disclose the features of the characterising part of the claim (see page 1, lines 36 and 37, and figure 2), but not in the context of a pouch-like insert.</p> <p>2.6a Taking document D1 as a starting point, a person skilled in the art would not consider attaching a part of the insert to each side of the slit opening, because in D1 the whole idea is to make it possible to move the jockstrap/insert to one side, and the features of the characterising part of claim 1 would not allow this.</p> <p>2.6b Taking document D2 as a starting point (see figure 1 in conjunction with figure 15, and page 3, lines 7 to 9), it would be possible for a person skilled in the art to apply the teaching of D3 so as to prevent two slits from opening and thus make it easier for the user to urinate. However, since D3 has nothing to do with jockstraps or pouch-like inserts, it is the examiner's view that a skilled person would not actually be able to combine these teachings without exercising inventive skill. Also, the idea of bringing the free edges together is not known from either D2 or D3.</p> <p>2.7 Claim 1 therefore appears to meet the requirements of PCT Article 33(1), 33(2) and 33(3) because the claimed</p>	

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Box No. V **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

solution to the existing technical problem does not seem obvious.

3. Dependent claims 2 to 7

From a formal point of view the dependent claims are also novel and inventive on account of their direct or indirect dependence on claim 1.

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Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

4. Formal objections

Contrary to the requirements of PCT Rule 5.1(a)(ii),
the description does not cite documents D1 and D2 and
also fails to give an account of the relevant prior
art disclosed therein.